

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

LEON BROWN,

Plaintiff,

v.

R. ESMOND, et al.,

Defendants.

Case No. 1:21-cv-00808-CDB (PC)

**ORDER SETTING SETTLEMENT
CONFERENCE AND PROCEDURES**

**Settlement Conference: 11/6/2023 at 8:30
a.m. before Magistrate Judge Erica P.
Grosjean**

**Confidential Settlement Conference
Statement Deadline: 10/30/2023**

Plaintiff is a state prisoner proceeding pro se with this civil rights action filed pursuant to 42 U.S.C. § 1983. The Court has determined that this case will benefit from a settlement conference. Therefore, this case will be referred to Magistrate Judge Erica P. Grosjean to conduct a **settlement conference at the California State Prison, Corcoran (CSP-COR), 4001 King Avenue, Corcoran, CA 93212 on November 6, 2023 at 8:30 a.m.** The Court will issue the necessary transportation order in due course.

In accordance with the above, **IT IS HEREBY ORDERED** that:

1. This case is set for a settlement conference before Magistrate Judge Erica P. Grosjean **on November 6, 2023 at 8:30 a.m. at CSP-COR.**

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- 2 2. A representative with full and unlimited authority to negotiate and enter into a binding
- 3 settlement on the defendants' behalf shall attend in person.¹ Unless otherwise
- 4 permitted in advance by the Court, the attorneys who will try the case shall appear at
- 5 the settlement conference. It is recommended that pertinent evidence to be offered at
- 6 trial, documents or otherwise, be brought to the settlement conference for presentation
- 7 to the settlement judge. Neither the settlement conference statements nor
- 8 communications during the settlement conference with the settlement judge can be
- 9 used by either party in the trial of this case.
- 10 3. Those in attendance must be prepared to discuss the claims, defenses and damages.
- 11 The failure of any counsel, party or authorized person subject to this order to appear in
- 12 person may result in the imposition of sanctions. In addition, the conference will not
- 13 proceed and will be reset to another date. Absent permission from the Court, in
- 14 addition to counsel who will try the case being present, the individual parties shall also
- 15 be present. In the case of corporate parties, associations or other entities, and
- 16 insurance carriers, a representative executive with authority to discuss, consider,
- 17 propose and agree, or disagree, to any settlement proposal or offer shall also be
- 18 present. A representative with unlimited authority shall either attend in person or be
- 19 available by phone throughout the conference. In other words, having settlement
- 20

21 ¹ While the exercise of its authority is subject to abuse of discretion review, "the district court has

22 the authority to order parties, including the federal government, to participate in mandatory settlement

23 conferences...." *United States v. United States District Court for the Northern Mariana Islands*, 694 F.3d

24 1051, 1053, 1057, 1059 (9th Cir. 2012) ("the district court has broad authority to compel participation in

25 mandatory settlement conference[s]"). The term "full authority to settle" means that the individuals

26 attending the mediation conference must be authorized to fully explore settlement options and to agree at

27 that time to any settlement terms acceptable to the parties. *G. Heileman Brewing Co., Inc. v. Joseph Oat*

28 *Corp.*, 871 F.2d 648, 653 (7th Cir. 1989), *cited with approval in Official Airline Guides, Inc. v. Goss*, 6

 F.3d 1385, 1396 (9th Cir. 1993). The individual with full authority to settle must also have "unfettered

 discretion and authority" to change the settlement position of the party, if appropriate. *Pitman v. Brinker*

Int'l., Inc., 216 F.R.D. 481, 485-86 (D. Ariz. 2003), *amended on recon. in part, Pitman v. Brinker Int'l.,*

Inc., 2003 WL 23353478 (D. Ariz. 2003). The purpose behind requiring the attendance of a person with

 full settlement authority is that the parties' view of the case may be altered during the face-to-face

 conference. *Pitman*, 216 F.R.D. at 486. An authorization to settle for a limited dollar amount or sum

 certain can be found not to comply with the requirement of full authority to settle. *Nick v. Morgan's*

Foods, Inc., 270 F.3d 590, 596-97 (8th Cir. 2001).

authority “up to a certain amount” is not acceptable. **IF ANY PARTY BELIEVES THAT A SETTLEMENT CONFERENCE WOULD BE FUTILE, THEN THAT PARTY SHALL CONTACT THE COURT NOT LATER THAN SEVENTY-TWO HOURS PRECEDING THE SCHEDULED SETTLEMENT CONFERENCE.**

4. Parties are directed to submit confidential settlement statements no later than October 30, 2023 to epgorders@caed.uscourts.gov. Plaintiff shall mail his confidential settlement statement Attn: Magistrate Judge Erica P. Grosjean, USDC CAED, 2500 Tulare Street, Room 1501, Fresno, California 93721, so it arrives no later than October 30, 2023. The envelope shall be marked “CONFIDENTIAL SETTLEMENT STATEMENT.” Parties are also directed to file a “Notice of Submission of Confidential Settlement Statement” (See L.R. 270(d)).

Settlement statements **should not be filed** with the Clerk of the Court **nor served on any other party**. Settlement statements shall be clearly marked “confidential” with the date and time of the settlement conference indicated prominently thereon.

The confidential settlement statement shall be **no longer than five pages** in length, typed or neatly printed, and include the following:

- a. A brief statement of the facts of the case.
- b. A brief statement of the claims and defenses, i.e., statutory or other grounds upon which the claims are founded; a forthright evaluation of the parties’ likelihood of prevailing on the claims and defenses; and a description of the major issues in dispute.
- c. An estimate of the cost and time to be expended for further discovery, pretrial, and trial.
- d. The party’s position on settlement, including present demands and offers and a

history of past settlement discussions, offers, and demands.

- e. A brief statement of the party's expectations and goals for the settlement conference, including how much the party is willing to accept and/or willing to pay.
- f. If the parties intend to discuss the joint settlement of any other actions or claims not in this suit, give a brief description of each action or claim as set forth above, including case number(s) if applicable.

- 5. The Clerk of the Court is directed to serve a copy of this order on the Litigation Office at California State Prison, Corcoran, via facsimile at (559) 992-7372 or via email.

IT IS SO ORDERED.

Dated: September 21, 2023


UNITED STATES MAGISTRATE JUDGE